IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.5945 OF 2005

Dilip Vasant Patkar. ..Applicant.

V/s.

The State of Maharashtra & Anr. ..Respondents.

Mr.A.P.Mundargi i/b Ganesh Gole for applicant.

Mrs.M.H.Mhatre, APP for State.

CORAM: A.M.KHANWILKAR,J

DATE : DECEMBER 14, 2005.

P.C. :

1. This application is for quashing of the criminal action pending against the petitioner. On the last occasion it was stated by the counsel for the applicant that the applicant has already filed discharge application before the concerned Magistrate. Grievance was however, made that the said discharge application has remained pending since year 2003 without any orders inspite of directions given by this court on two occasions to expedite the same dated 29th July, 2003 and again on 29th March, 2004.

2. In view of the said grievance, I directed the concerned Magistrate to submit report explaining why

the discharge application has remained pending for such a long time, that too inspite of direction given by this court on two occasions to expedite the same. Pursuant to the said directions, the concerned Magistrate has submitted Confidential Report dated December 9, 2005. On going through the said communication, it is more than clear that it is the applicant, who is responsible for delay in deciding the discharge application. The report indicates that the applicant and his advocate have been causing obstruction to the progress of the said discharge application before the trial court. There is no reason to doubt the correctness of the details mentioned in the Confidential Report dated 9th December, 2005.

3. Copy of the report was given to the learned Senior Counsel for the applicant for his perusal though it was confidential. On going through the said report, learned counsel for the applicant fairly accepts that the blame lies on the applicant and the learned Judge cannot be made responsible for the pendency of the discharge application since 2003. In this backdrop, I am inclined to dismiss the application for the conduct of the applicant.

4. At this stage, Mr.Mundargi, Senior Counsel for the applicant submits that instead of dismissing the present application, the applicant be given one opportunity to appear before the concerned Magistrate so that the discharge application can proceed on merits in accordance with the law. The applicant through his counsel assures that the applicant will extend full cooperation to the concerned Magistrate for early decision of the discharge application. That assurance is accepted.

5. It is made clear that the applicant and his counsel appearing before the trial court will observe restrain and confine argument to the merits of the case without entering into rheturic.

6. Application is allowed to be withdrawn on the above condition. All questions are left open.